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ATTORNEYS FOR PLAINTIFFS  
MIGUEL ORTEGA AND BENJAMIN ORTEGA

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

MIGUEL ORTEGA, and BENJAMIN  
ORTEGA,

Plaintiffs

vs.

CITY OF OAKLAND, et al.,

Defendants.

Case No.: C 07-02659 JCS (ADR)

**DECLARATION OF MIGUEL ORTEGA  
IN SUPPORT OF PLAINTIFFS'  
OPPOSITION TO DEFENDANTS'  
PARTIAL SUMMARY JUDGMENT  
MOTION**

Date: September 19, 2008  
Time: 9:30 a.m.  
Location: Courtroom A, 15<sup>th</sup> Floor

I, MIGUEL ORTEGA, declare:

1. I am a plaintiff in the above entitled action. I reside in San Lorenzo, California with my mother and brother Benjamin. I am over the age of 18, competent, able and willing to testify regarding the matters asserted in this declaration if called to testify. I declare the following through my own personal knowledge.

2. At my deposition taken February 20, 2008, I testified that I did not remember seeking any help for my psychological injury. I wasn't asked why I had not sought help. I have not sought help because unlike my brother Benjamin, I am not covered by any medical insurance. My understanding and belief is that Benjamin is covered because he is still a minor and my father's plan covers dependents. But

1 I know I do not have coverage and I had no financial ability, nor did my mother or father, to pay for the  
2 treatment I would need.

3 3. I also testified that I had not discussed with anyone about my injuries from the incident but I  
4 was not asked why. I am embarrassed to admit to my friends that I am fearful of police officers and I  
5 don't want to worry my family members. For this reason, with the exception of my mother and my girl  
6 friend, Lucilla Munoz, who I feel safe expressing myself to and before whom I do not fear being  
7 vulnerable, I have kept my emotional and physical pain to myself. I also felt guilty for not being able to  
8 help my little brother, Benjamin, who was just a small boy at the time, approximately 4'11. I felt  
9 traumatized due to the pistol/electric gun on the back of my head. I thought I was going to die. I have  
10 unresolved anger about how an officer of the law could abuse his power in that manner.

11 4. I didn't open the screen door until after I saw Alcantar hit Benjamin with his elbow on his  
12 neck, twist him around and grab his wrist upward, and in my perception torturing him by saying "if you  
13 don't say sorry I will break your wrist." My brother was screaming "Ahhh" in pain. Only at this point  
14 did I open the screen door and proceed to go outside.

15 5. I was grabbed and violently thrown down the stairs by three or four officers striking my back  
16 as I landed. Since the incident, I have had continuing severe back pain and rib pain. Sometimes the back  
17 pain is so intense that I cannot walk or even move. I have not been able to seek medical treatment for  
18 reasons having to do with my finances.

19 6. Prior to the incident, I had never heard use of the word "coconut". I did not call any officer  
20 a coconut that day or any other day. I did not hear any one that day call anyone "coconut".

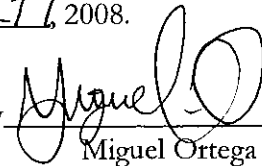
21 7. For days, if not months, I could not sleep. In the beginning I had insomnia as I couldn't fall  
22 asleep at all. Later as time passed, the insomnia subsided and it would only occur occasionally but it was  
23 still difficult for me to fall asleep. Immediately the day after the incident, I voiced this fear of police  
24 officers to my mother, Ana Rosa. The mere sight of a police officer triggered extreme anxiety, fear and  
25 panic in me.

26 I declare under penalty of perjury, under the laws of the State of California, that the foregoing is  
27  
28

1 true and correct, except as to those things stated on information and belief, and as to those things I  
2 believe them to be true.

3 Executed at Oakland, California on August 27, 2008.

4  
5 By

  
Miguel Ortega